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ABSTRACT

Basic information about child care settings and the Americans with Disabilities Act is presented in a question-and-answer format. The following questions are addressed: "What is the Americans with Disabilities Act (ADA)?"; "What is the definition of an individual with a disability under the ADA?"; "What does the ADA mean for a child care center or family day care home?"; "Are there benefits to including children with disabilities in a child care center or family day home?"; "Will Title III of the ADA create changes in child care programs?"; "What do 'readily achievable' and 'undue burden' mean?"; "What are 'auxiliary aids and services'?"; "Are any changes required in the transportation service a center provides to children?"; "What resources are available to help child care centers accommodate children with disabilities?"; "Since centers may incur additional costs in complying with the ADA, what help is available?"; and "How can child care centers meet the needs of both children with disabilities and children without disabilities?" Four organizational resources and three references are also provided. (DB)

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Q&A

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CHILD CARE SETTINGS AND THE AMERICANS WITH DISABILITIES ACT

What is the Americans with Disabilities Act (ADA)?

The ADA is civil rights legislation designed to protect people with mental or physical disabilities from discrimination based upon disability. Title III, generally effective as of January 26, 1992, prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed and altered in compliance with the ADA Accessibility Guidelines. Public accommodations include a variety of businesses and organizations such as restaurants, hotels, retail establishments, hospitals and child care centers.

What is the definition of an individual with a disability under the ADA?

It is a child or adult who:

- Has a physical or mental impairment which substantially limits one or more of the "major life activities" such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working,
- Has a record of such an impairment, or
- Is regarded as having an impairment.

What does the ADA mean for a child care center or family day care home?

The ADA affords children with mental or physical disabilities the opportunity to participate in all activities and opportunities of community life. Part of community life is the opportunity to benefit from being in a child care setting. Children can no longer be excluded from a child care setting on the basis of a disability.

Are there benefits to including children with disabilities in a child care center or family day home?

Yes. All children benefit when children with and without disabilities are served in the same child care centers. Children with disabilities learn important personal and social skills that they might not otherwise learn in segregated settings (Biklen, Corrigan & Quick, 1989).

Children who do not have disabilities benefit by demonstrating improved self-concept, growth in social cognition, increased tolerance of others and decreased fear of human differences (Peck, Donaldson & Pezzoli, 1990).

The parents of the child with a disability also benefit from integrated child care centers by being able to choose from neighborhood child care services instead of having limited options.

EC 301851

Will Title III of the ADA create changes in child care programs?

The ADA states that public accommodations, including child care centers, must make reasonable modifications in policies, practices, and procedures in order to accommodate individuals with disabilities. A modification is not required if it would "fundamentally alter" the goods or services of a child care setting. Architectural barriers and communication barriers that are structural in nature (such as stairs or permanent signage) which prevent access to services must be removed when "readily achievable." When barrier removal is not readily achievable, centers must make services available through alternative methods, if those methods are readily achievable.

Child care centers are required to provide "auxiliary aids and services" to ensure effective communication with children who have disabilities affecting hearing, vision or speech, unless to do so would "fundamentally alter" the goods or services provided or would constitute an "undue burden."

Possible changes may include:

- Revision of policies and procedures
- Curriculum adaptations
- Removal of physical barriers
- Provision of additional staff training
- Alteration of staffing patterns
- Provision of certain adaptive equipment

Although the ADA may require some changes in the operation of child care programs, examination of existing integrated schools and programs indicated that "imposing mainstreamed services to children with disabilities in private preschool or day care settings did not pose unusual difficulties" (Bagnato, Kontos & Neisworth, 1987).

What do "readily achievable" and "undue burden" mean?

Architectural barriers must be removed if "readily achievable." The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense.

Auxiliary aids and services must be provided unless that creates an "undue burden." "Undue burden" means significant difficulty or expense. Both "readily achievable" and "undue burden" will be determined on the basis of the nature and cost of the action needed in light of the resources available to individual child care centers.

What are "auxiliary aids and services?"

Auxiliary aids and services include a wide range of services and devices for ensuring effective communication for children with a variety of disabilities. These include qualified interpreters, qualified readers and other effective methods, equipment, devices and services needed for communication.

Child care centers are not required to provide individually prescribed personal devices such as hearing aids, prescription eyeglasses or other services of a personal nature.

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What about safety concerns?

Child care centers may impose legitimate safety requirements only if they are necessary for the center's safe operation. Any safety requirements used must be based on actual risks and not on speculation, stereotypes or generalizations about children with disabilities.

Are any changes required in the transportation service a center provides to children?

The same requirements under Title III that apply to child care centers apply to the transportation service that is provided. Barriers to equal access and use of vehicle(s) by children with disabilities must be removed to the extent it is readily achievable to do so. It is not mandatory that centers retrofit existing vehicle(s) with hydraulic or other lifts. However, any vehicles added to the transportation service must adhere to the regulations issued by the Department of Transportation.

What resources are available to help child care centers accommodate children with disabilities?

The Arc and other organizations are developing materials and providing technical assistance to help public accommodations comply with the ADA. However, child care centers and others should not overlook the resources available in their own communities. These include:

- families
- therapists/specialists who already provide services to children with disabilities
- community mental retardation and disability-related agencies
- voluntary organizations which represent families and people with disabilities (such as The Arc) and professionals who advocate for or work with children with disabilities
- other community child care programs which currently include children with disabilities
- local/state/federal government supported programs for children with disabilities.

The Arc operates a Family Support Project to assist families and organizations with information about community programs and supports including integrated child care programs. A free resource list on integrated child care settings is available by contacting the Family Support Project at the national headquarters of The Arc.

Since centers may incur additional costs in complying with the ADA, what help is available?

The ADA does not provide funding for implementation. However, centers may be eligible for the Tax Deduction to Remove Architectural and Transportation Barriers to People with Disabilities and Elderly Individuals (Title 26, Internal Revenue Code, Section 190). Centers may also qualify for the Disabled Access Tax Credit available to eligible small businesses for certain access expenditures including barrier removal and the provision of auxiliary aids and services (Section 44).

Can any of the costs incurred be passed on to the families of children with disabilities?

No. Title III prohibits centers from imposing extra charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as removing barriers or providing qualified interpreters. However, such costs can be passed on to all participants like any other overhead cost.

How can child care centers meet the needs of both children with disabilities and children without disabilities?

- Provide developmentally appropriate programs for all children;
- Engage in thoughtful planning to create a caring environment sensitive to the needs of all children;
- Initiate on-going training for staff on various topics including:
  - needs of children with disabilities
  - child health and safety
  - child growth and development
  - planning, learning activities, guidance and discipline
  - linkage with community services
  - communication with families

For additional information, contact:

The Arc
National Headquarters
500 E. Border St., S-300
P.O. Box 300649
Arlington, TX 76010
1-800-433-5255
1-800-855-1155 (TDD: ask operator to call collect 817/277-0553)

National Association for the Education of Young Children (NAEYC)
1834 Connecticut Ave., NW
Washington, D.C. 20009
1-800-424-2460
202/232-8777

Office on the ADA
Civil Rights Division
U. S. Department of Justice
P. O. Box 66738
Washington, D.C. 20035-9998
(202) 514-0301
(202) 514-0383 (TDD)
(202) 514-6193 (electronic bulletin board)

Architectural and Transportation Barriers Compliance Board (Access Board)
1331 F St., NW, S-1000
Washington, D.C. 20004-1111
1-800-USA-ABLE
(202) 653-7834 (voice and TDD)

References

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This document provides general information to promote voluntary compliance with the ADA. It was prepared under a grant from the U.S. Department of Justice. While the Office on the Americans with Disabilities Act has reviewed its contents, any opinions or interpretations in the document are those of The Arc and do not necessarily reflect the views of the Department of Justice. The ADA itself and the Department's ADA regulations should be consulted for further, more specific guidance.

This document is available in large print or on audio cassette tape.

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